

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KATHY MATTHEWS,

Plaintiff,

VS.

CITY OF HOUSTON FIRE
DEPARTMENT, *et al.*,

Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-07-1783

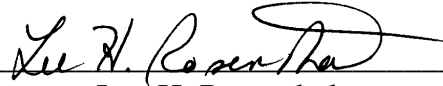
MEMORANDUM AND OPINION

On March 20, 2009, the plaintiff, Kathy Matthews, filed a “rejection” of this court’s memorandum and order entered on March 10, 2009, adopting the memorandum and recommendation of the magistrate judge entered on February 18, 2009. Matthews moved for a new trial. (Docket Entry No. 57). A motion for new trial filed within ten days after the entry of judgment dismissing a movant's claims is properly considered under Fed.R.Civ.P. 59(e). *Robin v. United States*, 233 Fed. Appx. 350, 352 (5th Cir.2007). A Rule 59(e) motion “calls into question the correctness of a judgment.” *In re Transtexas Gas Corp.*, 303 F.3d 571, 581 (5th Cir.2002). The movant is required to “establish either a manifest error of law or fact or must present newly discovered evidence.” *Robin*, 233 Fed. Appx. at 352. A Rule 59(e) motion should not be used to relitigate prior matters that should have been urged earlier or that simply have been resolved to the movant's dissatisfaction. *See Mongrue v. Monsanto Co.*, 249 F.3d 422, 427-28 (5th Cir.2001); *Simon v. United States*, 891 F.2d 1154, 1159 (5th Cir.1990).

The magistrate judge’s memorandum and recommendation analyzed Matthews’s claims in detail. Matthews has not identified any basis for the new trial she seeks. The motion for new trial

is denied for the reasons set out in the memorandum and recommendation issued by the magistrate judge and the memorandum and order issued by this court.

SIGNED on May 27, 2009, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge